

Ryan Lee, Esq. (SBN 024846)
Krohn & Moss, Ltd.
10635 Santa Monica Blvd. STE 170
Los Angeles, CA 90025
T: (323) 988-2400; F: (866) 802-0021
rlee@consumerlawcenter.com
Attorney for Plaintiff,
SHUNDRIKA DANIEL

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA-PHOENIX DIVISION

| | | |
|-----------------------|---|---|
| SHUNDRIKA DANIEL, |) | Case No.: |
| |) | |
| Plaintiff, |) | COMPLAINT AND DEMAND FOR |
| |) | JURY TRIAL |
| vs. |) | |
| |) | (Unlawful Debt Collection Practices) |
| MRS ASSOCIATES, INC., |) | |
| |) | |
| Defendant. |) | |

COMPLAINT

SHUNDRIKA DANIEL (Plaintiff), by her attorneys, KROHN & MOSS, LTD., alleges the following against MRS ASSOCIATES, INC. (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 *et seq.* (FDCPA). According to the FDCPA, the United States Congress has found abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the

1 loss of jobs, and to invasions of individual privacy. Congress wrote the FDCPA to
2 eliminate abusive debt collection practices by debt collectors, to insure that those debt
3 collectors who refrain from using abusive debt collection practices are not competitively
4 disadvantaged, and to promote consistent State action to protect consumers against debt
5 collection abuses. *15 U.S.C. 1692(a) – (e)*.

- 6 2. Plaintiff brings this action to challenge Defendant’s actions with regard to attempts by
7 Defendant, a debt collector, to unlawfully and abusively collect a debt allegedly owed by
8 Plaintiff, and this conduct caused Plaintiff damages.
- 9 3. Defendant acted through its agents, employees, officers, members, directors, heirs,
10 successors, assigns, principals, trustees, sureties, subrogees, representatives, and
11 insurers.

12 JURISDICTION AND VENUE

- 13 4. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such
14 actions may be brought and heard before “any appropriate United States district court
15 without regard to the amount in controversy” and *28 U.S.C. 1367* grants this court
16 supplemental jurisdiction over the state claims contained therein.
- 17 5. Because Defendant maintains a business office and conducts business in the State of
18 California, personal jurisdiction is established.
- 19 6. Venue is proper pursuant to *28 U.S.C. 1391(b)(1)*.
- 20 7. Declaratory relief is available pursuant to *28 U.S.C. 2201 and 2202*.

21 PARTIES

- 22 8. Plaintiff is a natural person who resides in the city of Lithonia, Georgia and is allegedly
23 obligated to pay a debt and is a “consumer” as that term is defined by *15 U.S.C.*
24 *1692a(3)*.
- 25 9. Defendant is a national company with business offices in Phoenix, Maricopa County,

1 Arizona.

2 10. Defendant uses instrumentalities of interstate commerce or the mails in any business the
3 principal purpose of which is the collection of any debts, or who regularly collects or
4 attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or
5 due another and is a "debt collector" as that term is defined by *15 U.S.C. § 1692a(6)*.

6 **FACTUAL ALLEGATIONS**

7 11. Defendant constantly and continuously places collection calls to Plaintiff seeking and
8 demanding payment for an alleged consumer debt.

9 12. Defendant places constant and continuous collection calls to Plaintiff at the number
10 (504) 669-2738.

11 13. Defendant places constant and continuous collection calls to Plaintiff from the number
12 (800) 932-4950.

13 14. Defendant has placed between 2-3 calls to Plaintiff every day for 2 months seeking and
14 demanding payment for an alleged consumer debt.

15 15. Defendant routinely places collection calls Plaintiff and hangs up when the phone is
16 answered by Plaintiff or by the answering machine.

17 16. Defendant failed to properly identify itself when placing collection calls to Plaintiff.

18 17. Defendant failed to provide Plaintiff with a 30 day validation letter.
19

20
21 **COUNT I**
22 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

23 18. Defendant violated the FDCPA based on the following:

24 a. Defendant violated *§1692d* of the FDCPA by engaging in conduct the natural
25 consequence of which is to harass, oppress, and abuse the Plaintiff.

- b. Defendant violated §1692d(5) of the FDCPA by causing the phone to ring excessively and repeatedly with the intent to annoy or harass Plaintiff.
- c. Defendant violated §1692d(6) of the FDCPA by placing telephone calls without properly disclosing his/her identity.
- d. Defendant violated §1692e of the FDCPA by making false, deceptive and misleading representations in connection with the debt collection.
- e. Defendant violated §1692e(10) of the FDCPA by making false representations and using deceptive means to collect a debt or obtain information concerning the Plaintiff.
- f. Defendant violated §1692e(11) of the FDCPA by contacting Plaintiff and failing to provide the mini-Miranda in the initial communication.
- g. Defendant violated §1692e(11) of the FDCPA by failing to disclose in subsequent communications that the call is from debt collector.
- h. Defendant violated §1692f of the FDCPA because Defendant attempted to collect any amount when it used unfair or unconscionable means to collect any debt.
- i. Defendant violated §1692g(a)(1-5) by failing to provide appropriate notice of the debt within 5 days after the initial communication including: (1) the amount of the debt; (2) the name of the creditor to whom the debt is owed; (3) a statement that unless the consumer, within 30 days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector; (4) a statement that if the consumer notifies the debt collector in writing within the 30-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will

1 be mailed to the consumer by the debt collector; and (5) a statement that, upon
2 the consumer's written request within the 30-day period, the debt collector will
3 provide the consumer with the name and address of the original creditor, if
4 different from the current creditor.

5 19. As a direct and proximate result of one or more or all of the statutory violations above
6 Plaintiff has suffered emotional distress (see Exhibit A).

7 WHEREFORE, Plaintiff, SHUNDRIKA DANIEL, respectfully requests judgment be
8 entered against Defendant, MRS ASSOCIATES, INC., for the following:

9 20. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection
10 Practices Act,

11 21. Statutory damages pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,

12 22. Actual damages,

13 23. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act,
14 *15 U.S.C. 1692k*

15 24. Any other relief that this Honorable Court deems appropriate.

16 **DEMAND FOR JURY TRIAL**

17 PLEASE TAKE NOTICE that Plaintiff, SHUNDRIKA DANIEL, demands a jury trial in
18 this cause of action.

19 RESPECTFULLY SUBMITTED,

20 DATED: March 26, 2009

KROHN & MOSS, LTD.

21 By: /s/Ryan Lee
22 Ryan Lee
23 Attorney for Plaintiff
24
25

Plaintiff, SHUNDRIKA DANIEL, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, SHUNDRIKA DANIEL, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

3-12-09

Date


SHUNDRIKA DANIEL

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EXHIBIT A

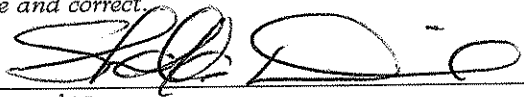
I have suffered from the following due to, or made worse by, the actions of the Defendant's debt collection activities:

- | | | |
|---|--------------------------------------|--------------------------|
| 1. Sleeplessness | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 2. Fear of answering the telephone | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 3. Nervousness | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 4. Fear of answering the door | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 5. Embarrassment when speaking with family or friends | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 6. Depressions (sad, anxious, or "empty" moods) | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 7. Chest pains | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 8. Feelings of hopelessness, pessimism | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 9. Feelings of guilt, worthlessness, helplessness | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 10. Appetite and/or weight loss or overeating and weight gain | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 11. Thoughts of death, suicide or suicide attempts | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 12. Restlessness or irritability | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 13. Headache, nausea, chronic pain or fatigue | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 14. Negative impact on my job | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 15. Negative impact on my relationships | <input checked="" type="radio"/> YES | <input type="radio"/> NO |

Other physical or emotional symptoms you believe are associated with abusive debt collection activities: _____

Pursuant to 28 U.S.C. § 1746(2), I hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 3-12-09


Signed Name

Shundrika Daniel
Printed Name